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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,830	11/04/2003	Liran B. Cohen	N9358	5775

7590 06/30/2005

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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/700,830

Applicant(s)

COHEN ET AL.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,8,10,11 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,5,7,8 and 14 is/are allowed.
- 6) ☒ Claim(s) 10,11 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment submitted 14 April 2005. Claims 1, 4, 5, 7, 8, 10, 11, and 14-17 are pending in the application. Claims 14-17 are new to the application and claims 2, 3, 6, 9, 12, and 13 have been canceled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

3. The formal drawings were received on 14 April 2005. These drawings are not acceptable. Figures 1 and 1a do not show the tab structure 52 as previously presented in the original drawings. Figures 4b and 4c do not depict items 25a and 25b as previously presented in the original drawings. However, the applicant's amendment to claim 10 has obviated the previous objection to the drawings.

Claim Rejections - 35 USC § 112

4. The applicant's amendment has overcome the rejection of claims 10 and 11 under 35 USC 112, 1st paragraph.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 11 depend either directly or in dependent chain from canceled claim 9. The examiner presumes this is an inadvertent error and that the claims are to depend from claim 8.

Claim Rejections - 35 USC § 103

6. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pita et al (US 5,171,081) in view of Baumann et al (US 3,415,360) and Prell (US 2,984,570).

Pita et al discloses a chemiluminescent vessel **10** with an outer wall **12** and an inner wall defining a first chamber **24**, and joined at one end by means of frangible barrier **38**, which separates deformable tube **28** forming second chamber **32** from first chamber **24**. Pita et al merely lacks the rotatable cap with projection.

Baumann et al discloses that it was known in the art to use a closure to rupture a ring-shaped chamber **17** to effect mixing of the components (see Figure 8 and Col. 2, line 67 to Col. 3, line 2).

Prell discloses a rotational closure **26** with a projection **38** used to rupture a mixing chamber **28** to effect mixing of components (see Figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Pita et al with a closure having a

Art Unit: 3728

projection as taught by Prell in order to use the closure to effect rupture of the ring-shaped chamber as suggested by Baumann et al. One of ordinary skill in the art would have been motivated to use the screw-projection concept of Prell since the combination of point contact and screw application would have affected a breaking procedure requiring very little manual force by the user.

Allowable Subject Matter

7. Claims 1, 4, 5, 7, 8, and 14 are allowed.
8. Claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

10. Applicant's arguments filed 14 April 2005 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

for
Greg Pickett
Examiner
16 June 2005



Mickey Yu
Supervisory Patent Examiner
Group 3700